

Dineen Johnson v. Wal-Mart Stores East, LP, Walmart, Inc., C.P. Food Products Inc dba Captn's Pack and CP Foods USA

Case Number	45D10-2202-CT-000165
Court	Lake Superior Court, Civil Division 6
Type	CT - Civil Tort
Filed	02/16/2022
Status	02/16/2022 , Pending (active)

Parties to the Case

Defendant Wal-Mart Stores East, LP

Attorney

Robert Burdette Thornburg  
#1959402, Retained

201 N. Illinois St., Ste. 1900  
P.O. Box 44961  
Indianapolis, IN 46244-0961  
317-237-3800(W)

Defendant Walmart, Inc.

Attorney

Robert Burdette Thornburg  
#1959402, Retained

201 N. Illinois St., Ste. 1900  
P.O. Box 44961  
Indianapolis, IN 46244-0961  
317-237-3800(W)

Defendant C.P. Food Products Inc dba Captn's Pack and CP Foods USA

Address

7135 Minstrel Way  
Columbia, MD 21045

Attorney

David Peter Burow Flak  
#2004964, Retained

Liberty Mutual Group Field Legal Offices  
PO Box 6835  
Scranton, PA 18505  
317-582-0438(W)

Plaintiff Johnson, Dineen

Julie A. Dugan

#2263745, Retained

275 Joliet St.

Ste. 330

Dyer, IN 46311

219-322-8222(W)

## Chronological Case Summary

02/16/2022 **Case Opened as a New Filing**

02/16/2022 **Appearance Filed**

Appearance

For Party: Johnson, Dineen

File Stamp: 02/16/2022

02/16/2022 **Complaint/Equivalent Pleading Filed**

Complaint for Damages and Jury Demand

Filed By: Johnson, Dineen

File Stamp: 02/16/2022

02/16/2022 **Subpoena/Summons Filed**

Summons Wal-Mart Stores East, LP

Filed By: Johnson, Dineen

File Stamp: 02/16/2022

02/16/2022 **Subpoena/Summons Filed**

Summons Walmart, Inc.

Filed By: Johnson, Dineen

File Stamp: 02/16/2022

02/25/2022 **Service Returned Served (E-Filing)**

Return of Service for Wal-Mart Stores East, LP

Filed By: Johnson, Dineen

File Stamp: 02/25/2022

02/25/2022 **Service Returned Served (E-Filing)**

Return of Service on Walmart, Inc.

Filed By: Johnson, Dineen

File Stamp: 02/25/2022

03/18/2022 **Appearance Filed**

Appearance on behalf of Defendants

For Party: Wal-Mart Stores East, LP

For Party: Walmart, Inc.

File Stamp: 03/18/2022

03/18/2022 **Answer Filed**

Answer to Plaintiff's Complaint

Filed By: Wal-Mart Stores East, LP

Filed By: Walmart, Inc.

File Stamp: 03/18/2022

03/18/2022 **Hearing Scheduling Activity**

Initial Hearing scheduled for 08/29/2022 at 1:30 PM.

03/18/2022 **Order for Hearing**

Order Scheduling Zoom Case Management Conference

Judicial Officer: Lang, Kathleen B - PT

Order Signed: 03/18/2022

03/18/2022 **Answer Filed**

Answer (resubmitting per Court instruction)

Filed By: Wal-Mart Stores East, LP

Filed By: Walmart, Inc.

File Stamp: 03/18/2022

03/19/2022 **Automated ENotice Issued to Parties**

Hearing Scheduling Activity ---- 3/18/2022 : Julie A. Dugan;Robert Burdette Thornburg Order for Hearing ---- 3/18/2022 : Julie A. Dugan;Robert Burdette Thornburg

04/18/2022 **Motion Filed**

Motion for Leave to File First Amended Complaint

Filed By: Johnson, Dineen

File Stamp: 04/15/2022

04/18/2022 **Amended Pleading Filed**

First Amended Complaint for Damages and Jury Demand

Filed By: Johnson, Dineen

File Stamp: 04/15/2022

04/18/2022 **Subpoena/Summons Filed**

Summons

Filed By: Johnson, Dineen

File Stamp: 04/15/2022

04/18/2022 **Subpoena/Summons Filed**

Summons

Filed By: Johnson, Dineen

File Stamp: 04/15/2022

05/18/2022 **Order Granting**

Motion for Leave to File First Amended Complaint.

Judicial Officer: Adat-Lopez, Rehana R

Order Signed: 05/18/2022

05/19/2022 **Automated ENotice Issued to Parties**

Order Granting ---- 5/18/2022 : Julie A. Dugan;Robert Burdette Thornburg

05/26/2022

**Service Returned Served (E-Filing)**

Return of Service on CP Food Products, Inc. d/b/a Captn's Pack

Filed By: Johnson, Dineen

File Stamp: 05/26/2022

05/26/2022

**Service Returned Served (E-Filing)**

Return of Service on CP Foods USA

Filed By: Johnson, Dineen

File Stamp: 05/26/2022

06/07/2022

**Answer Filed**

Walmart's Answer to Plaintiff's First Amended Complaint

Filed By: Wal-Mart Stores East, LP

Filed By: Walmart, Inc.

File Stamp: 06/07/2022

06/10/2022

**Appearance Filed**

Appearance by C.P. Food Products Inc dba Captn's Pack and CP Foods USA

For Party: C.P. Food Products Inc dba Captn's Pack and CP Foods USA

File Stamp: 06/10/2022

06/10/2022

**Motion for Enlargement of Time Filed**

Motion for Extension of Time

Filed By: C.P. Food Products Inc dba Captn's Pack and CP Foods USA

File Stamp: 06/10/2022

06/10/2022

**Order Granting Motion for Enlargement of Time**

Judicial Officer: Adat-Lopez, Rehana R

Order Signed: 06/10/2022

06/11/2022

**Automated ENotice Issued to Parties**

Order Granting Motion for Enlargement of Time ---- 6/10/2022 : David Peter Burow Flak;Julie A. Dugan;Robert Burdette Thornburg

06/21/2022

**Amended Pleading Filed**

Defendant's Amended Answer to Plaintiff's First Amended Complaint for Damages

Filed By: Wal-Mart Stores East, LP

Filed By: Walmart, Inc.

File Stamp: 06/20/2022

08/29/2022

**Initial Hearing**

Session:

08/29/2022 1:30 PM, Judicial Officer: Adat-Lopez, Rehana R

Comment: via Zoom

**Financial Information**

\* Financial Balances reflected are current representations of transactions processed by the Clerk's Office. Please note that any balance due does not reflect interest that has accrued – if applicable – since the last payment. For questions/concerns regarding balances shown, please contact the Clerk's Office.

**Johnson, Dineen**

Plaintiff

Balance Due (as of 06/24/2022)

0.00

Charge Summary

Description	Amount	Credit	Payment
Court Costs and Filing Fees	157.00	0.00	157.00

Transaction Summary

Date	Description	Amount
02/16/2022	Transaction Assessment	157.00
02/16/2022	Electronic Payment	(157.00)

This is not the official court record. Official records of court proceedings may only be obtained directly from the court maintaining a particular record.

*(List on continuation page additional attorneys appearing for above party)*



**IMPORTANT:** Each attorney specified on this appearance:

- (a) certifies that the contact information listed for him on the Indiana Supreme Court Roll of Attorneys is current and accurate as of the date this Appearance is filed;
- (b) acknowledges that all orders, opinions, and notices in this matter served under Trial Rule 86(G) will be sent to the attorney at the email address specified by the attorney on the Roll of Attorneys *regardless of the contact information listed above for the attorney*; and
- (c) understands that he is solely responsible for keeping his Roll of Attorneys contact information current and accurate, *see* Ind. Admis. Disc. R. 2(A).

3. This is a CT case type as defined in administrative Rule 8(B)(3).

4. This case involves child support issues. Yes \_\_\_\_ No X (If yes, supply social security numbers for all family members on a separately attached document filed as confidential information on **light green paper**. Use Form TCM-TR3.1-4.)

5. This case involves a protection from abuse order, a workplace violence restraining order, or a no – contact order. Yes \_\_\_\_ No  X  *(If Yes, the initiating party must provide an address for the purpose of legal service but that address should not be one that exposes the whereabouts of a petitioner.)*  
The party shall use the following address for purposes of legal service:

\_\_\_\_ Attorney's address

The Attorney General Confidentiality program address (contact the Attorney General at 1-800-321-1907 or e-mail address is **confidential[atg.in.gov]**).

Another address (provide) \_\_\_\_\_

6. This case involves a petition for involuntary commitment. Yes        No   X  

8. If Yes above, provide the following regarding the individual subject to the petition for involuntary commitment:

a. Name of the individual subject to the petition for involuntary commitment if it is not already provided in #1 above:

b. State of Residence of person subject to petition: \_\_\_\_\_

c. At least one of the following pieces of identifying information:

(i) Date of Birth \_\_\_\_\_

(ii) Driver's License Number \_\_\_\_\_

State where issued \_\_\_\_\_ Expiration date \_\_\_\_\_

(iii) State ID number \_\_\_\_\_

State where issued \_\_\_\_\_ Expiration date \_\_\_\_\_

(iv) FBI number \_\_\_\_\_

(v) Indiana Department of Corrections Number  
\_\_\_\_\_

(vi) Social Security Number is available and is being provided in an  
attached confidential document Yes \_\_\_\_ No \_\_\_\_

9. There are related cases: Yes \_\_\_\_ No X *(If yes, list on continuation page.)*

10. Additional information required by local rule:  
  
\_\_\_\_\_

11. There are other party members: Yes \_\_\_\_ No X *(If yes, list on  
continuation page.)*

12. This form has been served on all other parties and Certificate of Service is  
attached:

Yes \_\_\_\_ No X

/s/ Julie A. Dugan

Julie A. Dugan, (22637-45)

Attorney-at-Law

(Attorney information shown above)



2. CONTINUATION PAGE (Additional Attorneys Appearing)

Name: Terrence M. Rubino Atty Number: 6220-45

Address: Rubino, Ruman, Crosmer & Polen,  
275 Joliet Street, Suite 330, Dyer, IN 46311

Phone: (219) 322-8222 Fax: (219) 322-6675

Email Address: trubino@rubinoruman.com

Name: Andrew A. Crosmer Atty Number: 11531-45

Address: Rubino, Ruman, Crosmer & Polen, 275 Joliet Street, Suite 330, Dyer, IN  
46311

Phone: (219) 322-8222 Fax: (219) 322-6675

Email Address: acrosmer@rubinoruman.com

Name: Michael E. Polen, Jr. Atty Number: 25052-45

Address: Rubino, Ruman, Crosmer & Polen, 275 Joliet Street, Suite 330, Dyer, IN  
46311

Phone: (219) 322-8222 Fax: (219) 322-6675

Email Address: mpolen@rubinoruman.com

Name: Daniel J. Zlatic Atty Number: 19920-45

Address: Rubino, Ruman, Crosmer & Polen, 275 Joliet Street, Suite 330, Dyer, IN  
46311

Phone: (219) 322-8222 Fax: (219) 322-6675

Email Address: dzlatic@rubinoruman.com

STATE OF INDIANA        )  
                                  ) SS:  
COUNTY OF LAKE        ) \_\_\_\_\_, INDIANA

DINEEN JOHNSON,                                )  
  )  
          Plaintiff,                                )  
  )  
v.    ) Cause No.:  
  )  
WAL-MART STORES EAST, LP and                )  
WALMART, INC.                                    )  
  )  
          Defendants.                                )

### COMPLAINT FOR DAMAGES AND JURY DEMAND

Comes now the plaintiff, Dineen Johnson, by counsel, Julie A. Dugan of Rubino, Ruman, Crosmer, & Polen, and for her cause of action against the defendants, Wal-Mart Stores East, LP and Walmart, Inc., states as follows:

1. That the defendant, Wal-Mart Stores East, LP, is a corporation licensed to do business in the State of Indiana.

2. That the defendant, Wal-Mart Stores East, LP, operates store #2544 (Store #2544) located at 6087 US Highway 6, Portage, IN 46368.

3. That the defendant, Walmart Inc. is located at 702 SW 8<sup>th</sup> Street, Bentonville, AZ 72712.

4. That the Defendants manufacture, distribute, and sell Great Value Cooked Shrimp in the State of Indiana.

5. That on April 16, 2020 and May 13, 2020, the plaintiff, Dineen Johnson, purchased large and extra-large frozen Great Value Cooked Shrimp, Peeled, Deveined and Tail-On from Store #2544.

6. While eating one package of the shrimp, Plaintiff Dineen Johnson encountered a black substance within the shrimp.

7. The plaintiff became ill after coming in to contact with the black substance and has required medical treatment for care of her injuries. As a direct and proximate result, she has incurred medical expenses and mental distress.

8. When the plaintiff sustained her injuries, she was a consumer and the defendants were the manufacturers, distributors, and sellers.

9. The defendants placed into the stream of commerce a product in a defective condition unreasonably dangerous to the plaintiff and, pursuant to I. C. § 34-20-2 et. seq., the defendants are strictly liable to the plaintiff for injuries and damages.

WHEREFORE, the plaintiff seeks compensatory damages which will reasonably compensate her, plus costs, including attorneys' fees for any frivolously asserted affirmative defenses, prejudgment interest and any other proper relief.

/s/ Julie A. Dugan  
Julie A. Dugan, #22637-45  
RUBINO, RUMAN, CROSMER,  
& POLEN  
Attorney for Plaintiff

**JURY DEMAND**

Plaintiff, by counsel, demands trial by jury.

s/ Julie A. Dugan  
Julie A. Dugan, #22637-45  
RUBINO, RUMAN, CROSMER,  
& POLEN  
275 Joliet Street, Suite 330  
Dyer, IN 46311  
(219) 322-8222  
jdugan@rubinoruman.com  
Attorney for Plaintiff

45D10-2202-CT-000165

Filed: 2/16/2022 1:04 PM

Clerk

Lake County, Indiana

STATE OF INDIANA )  
 ) SS:  
 COUNTY OF LAKE ) \_\_\_\_\_, INDIANA

DINEEN JOHNSON, )  
 Plaintiff, )  
 -vs- ) CAUSE NO.:  
 WAL-MART STORES EAST, LP and )  
 WALMART, INC. )  
 Defendants. )

**SUMMONS**

THE STATE OF INDIANA TO THE DEFENDANT: Wal-Mart Stores East, LP  
 c/o C T Corporation System  
 334 North Senate Avenue  
 Indianapolis, IN 46204

You have been sued by the person(s) identified as "Plaintiff" in the Court stated above.

The nature of the suit against you is stated in the Complaint, which is attached to this Summons. It also states the demand which the Plaintiff has made against you.

You must either personally or by your attorney, file your written answer to the Complaint with the Clerk within twenty (20) days commencing the day after this Summons and the Complaint were personally served upon you or your agent or left for you by the Sheriff or other process server.

In the event the Summons and Complaint were left for you and you then receive by first class mail (not certified), a copy of the Summons alone, this mailing is merely a confirmation that the Summons and Complaint were previously left for you. You should not consider the date on which you receive the mailed Summons as the commencement date for the time period allowed for your answer. Rather, the time period allowed for your written answer commences on the date when the Summons and Complaint were first personally served upon you or your agent or left for you by the Sheriff or other process server.

However, if you and your agent first received the Summons and the Complaint by certified mail, you have twenty-three (23) days from the date of receipt to file your written answer with the Clerk.

If you fail to answer the Complaint of the Plaintiff within the times prescribed herein, judgment will be entered against you for what the Plaintiff has demanded.

If you have a claim against the Plaintiff arising from the same transaction or occurrence, you may be required to assert such claim in writing together with your written answer.

Manner of Service: **Certified Mail**

2/16/2022

Date: \_\_\_\_\_, 2022

Attorney Julie A. Dugan - #22637-45  
 RUBINO, RUMAN, CROSMER & POLEN, LLC  
 275 Joliet Street, Suite 330  
 Dyer, IN 46311  
 (219) 322-8222 (telephone)  
 (219) 322-6675 (fax)

*Lorenzo Arredondo*

Lorenzo Arredondo, Clerk of the Lake Superior Court  
 By \_\_\_\_\_ (Deputy)

**PREPARATION DATA:**

All Summons are to be prepared in triplicate with the original of each to be placed in the Court file with two copies available for service. If service is by certified mail, a properly addressed envelope shall be provided for each Defendant.

Certified Mail labels and return receipts must be furnished for each mailing and the cause number must appear on each return receipt, which shall be returnable to the Clerk at the address of the Court. (Form: CS 1/97)



**CLERK'S CERTIFICATE OF MAILING**

I hereby certify that on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, I mailed a copy of this Summons and a copy of the Complaint to the Defendant, by certified mail, requesting a return receipt, at the address furnished by the Plaintiff.

\_\_\_\_\_  
Lorenzo Arredondo, Clerk of the Lake Superior Court

Date: \_\_\_\_\_

By \_\_\_\_\_ (Deputy)

**RETURN ON SERVICE OF SUMMONS BY MAIL**

I hereby certify that the attached return receipt was received by me showing that the Summons and a copy of the Complaint was mailed to the Defendant, was accepted by the Defendant on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

I hereby certify that the attached return receipt was received by me showing that the Summons and a copy of the Complaint was returned not accepted on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Lorenzo Arredondo, Clerk of the Lake Superior Court

By \_\_\_\_\_ (Deputy)

**RETURN OF SERVICE OF SUMMONS BY SHERIFF**

I hereby certify that I have served the within Summons:

1. By delivering on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, a copy of this Summons, a copy of the Complaint, and all other materials filed the same date to each of the within named person(s).
2. By leaving on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, for each of the within named person(s), \_\_\_\_\_ a copy of the Summons, a copy of the Complaint, and all other materials filed the same date at the respective dwelling house or usual place of abode of \_\_\_\_\_ in \_\_\_\_\_, Indiana, with a person of suitable age and discretion residing within, whose usual duties or activities include prompt communication of such information to the person served, or by otherwise leaving such process thereat, and by mailing a copy of the Summons without the Complaint to the said named person(s) at the address listed herein.
3. This Summons came to hand this date, \_\_\_\_\_, 20\_\_\_\_. The within named, \_\_\_\_\_, was not found to my bailiwick this date, \_\_\_\_\_, 20\_\_\_\_.

ALL DONE IN LAKE COUNTY, INDIANA.

\_\_\_\_\_  
Sheriff of Lake County, Indiana

By \_\_\_\_\_

**SERVICE ACKNOWLEDGED**

A copy of the within Summons, a copy of the Complaint, and all materials filed the same date attached hereto were received by me at \_\_\_\_\_, in \_\_\_\_\_, Indiana, on this date, \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Signature of Defendant

45D10-2202-CT-000165

Filed: 2/16/2022 1:04 PM  
Clerk

STATE OF INDIANA )  
 ) SS:  
COUNTY OF LAKE ) \_\_\_\_\_, INDIANA

Lake Superior Court, Civil Division 6

Lake County, Indiana

DINEEN JOHNSON, )  
Plaintiff, )  
-vs- ) CAUSE NO.:  
WAL-MART STORES EAST, LP and )  
WALMART, INC. )  
Defendants. )

**SUMMONS**

THE STATE OF INDIANA TO THE DEFENDANT: Walmart, Inc.  
c/o C T Corporation System  
334 North Senate Avenue  
Indianapolis, IN 46204

You have been sued by the person(s) identified as "Plaintiff" in the Court stated above.

The nature of the suit against you is stated in the Complaint, which is attached to this Summons. It also states the demand which the Plaintiff has made against you.

You must either personally or by your attorney, file your written answer to the Complaint with the Clerk within twenty (20) days commencing the day after this Summons and the Complaint were personally served upon you or your agent or left for you by the Sheriff or other process server.

In the event the Summons and Complaint were left for you and you then receive by first class mail (not certified), a copy of the Summons alone, this mailing is merely a confirmation that the Summons and Complaint were previously left for you. You should not consider the date on which you receive the mailed Summons as the commencement date for the time period allowed for your answer. Rather, the time period allowed for your written answer commences on the date when the Summons and Complaint were first personally served upon you or your agent or left for you by the Sheriff or other process server.

However, if you and your agent first received the Summons and the Complaint by certified mail, you have twenty-three (23) days from the date of receipt to file your written answer with the Clerk.

If you fail to answer the Complaint of the Plaintiff within the times prescribed herein, judgment will be entered against you for what the Plaintiff has demanded.

If you have a claim against the Plaintiff arising from the same transaction or occurrence, you may be required to assert such claim in writing together with your written answer.

Manner of Service: **Certified Mail**

2/16/2022

Date: \_\_\_\_\_, 2022

Attorney Julie A. Dugan - #22637-45  
RUBINO, RUMAN, CROSMER & POLEN, LLC  
275 Joliet Street, Suite 330  
Dyer, IN 46311  
(219) 322-8222 (telephone)  
(219) 322-6675 (fax)

*Lorenzo Arredondo*

Lorenzo Arredondo, Clerk of the Lake Superior Court  
By \_\_\_\_\_ (Deputy)

**PREPARATION DATA:**

All Summons are to be prepared in triplicate with the original of each to be placed in the Court file with two copies available for service. If service is by certified mail, a properly addressed envelope shall be provided for each Defendant.

Certified Mail labels and return receipts must be furnished for each mailing and the cause number must appear on each return receipt, which shall be returnable to the Clerk at the address of the Court. (Form: CS 1/97)

**CLERK'S CERTIFICATE OF MAILING**

I hereby certify that on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, I mailed a copy of this Summons and a copy of the Complaint to the Defendant, by certified mail, requesting a return receipt, at the address furnished by the Plaintiff.

\_\_\_\_\_  
Lorenzo Arredondo, Clerk of the Lake Superior Court

Date: \_\_\_\_\_

By \_\_\_\_\_ (Deputy)

**RETURN ON SERVICE OF SUMMONS BY MAIL**

I hereby certify that the attached return receipt was received by me showing that the Summons and a copy of the Complaint was mailed to the Defendant, was accepted by the Defendant on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

I hereby certify that the attached return receipt was received by me showing that the Summons and a copy of the Complaint was returned not accepted on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Lorenzo Arredondo, Clerk of the Lake Superior Court

By \_\_\_\_\_ (Deputy)

**RETURN OF SERVICE OF SUMMONS BY SHERIFF**

I hereby certify that I have served the within Summons:

1. By delivering on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, a copy of this Summons, a copy of the Complaint, and all other materials filed the same date to each of the within named person(s).
2. By leaving on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, for each of the within named person(s), \_\_\_\_\_ a copy of the Summons, a copy of the Complaint, and all other materials filed the same date at the respective dwelling house or usual place of abode of \_\_\_\_\_ in \_\_\_\_\_, Indiana, with a person of suitable age and discretion residing within, whose usual duties or activities include prompt communication of such information to the person served, or by otherwise leaving such process thereat, and by mailing a copy of the Summons without the Complaint to the said named person(s) at the address listed herein.
3. This Summons came to hand this date, \_\_\_\_\_, 20\_\_\_\_. The within named, \_\_\_\_\_, was not found to my bailiwick this date, \_\_\_\_\_, 20\_\_\_\_.

ALL DONE IN LAKE COUNTY, INDIANA.

\_\_\_\_\_  
Sheriff of Lake County, Indiana

By \_\_\_\_\_

**SERVICE ACKNOWLEDGED**

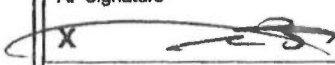

A copy of the within Summons, a copy of the Complaint, and all materials filed the same date attached hereto were received by me at \_\_\_\_\_, in \_\_\_\_\_, Indiana, on this date, \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Signature of Defendant



SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY												
<ul style="list-style-type: none"><li>■ Complete items 1, 2, and 3.</li><li>■ Print your name and address on the reverse so that we can return the card to you.</li><li>■ Attach this card to the back of the mailpiece, or on the front if space permits.</li></ul>	<p>A. Signature <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) C. Date of Delivery</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>												
<p>1. Article Addressed to:</p> <p>Walmart, Inc. c/o CT Corporation System 334 North Senate Avenue Indianapolis, IN 46204</p> <p>9590 9402 6571 1028 4455 62</p>	<p>3. Service Type</p> <table border="0"><tr><td><input checked="" type="checkbox"/> Adult Signature</td><td><input type="checkbox"/> Priority Mail Express®</td></tr><tr><td><input type="checkbox"/> Adult Signature Restricted Delivery</td><td><input type="checkbox"/> Registered Mail™</td></tr><tr><td><input checked="" type="checkbox"/> Certified Mail®</td><td><input type="checkbox"/> Registered Mail Restricted Delivery</td></tr><tr><td><input type="checkbox"/> Certified Mail Restricted Delivery</td><td><input type="checkbox"/> Signature Confirmation™</td></tr><tr><td><input type="checkbox"/> Collect on Delivery</td><td><input type="checkbox"/> Signature Confirmation Restricted Delivery</td></tr><tr><td><input type="checkbox"/> Collect on Delivery Restricted Delivery</td><td></td></tr></table> <p>I Mail I Mail Restricted Delivery (500)</p>	<input checked="" type="checkbox"/> Adult Signature	<input type="checkbox"/> Priority Mail Express®	<input type="checkbox"/> Adult Signature Restricted Delivery	<input type="checkbox"/> Registered Mail™	<input checked="" type="checkbox"/> Certified Mail®	<input type="checkbox"/> Registered Mail Restricted Delivery	<input type="checkbox"/> Certified Mail Restricted Delivery	<input type="checkbox"/> Signature Confirmation™	<input type="checkbox"/> Collect on Delivery	<input type="checkbox"/> Signature Confirmation Restricted Delivery	<input type="checkbox"/> Collect on Delivery Restricted Delivery	
<input checked="" type="checkbox"/> Adult Signature	<input type="checkbox"/> Priority Mail Express®												
<input type="checkbox"/> Adult Signature Restricted Delivery	<input type="checkbox"/> Registered Mail™												
<input checked="" type="checkbox"/> Certified Mail®	<input type="checkbox"/> Registered Mail Restricted Delivery												
<input type="checkbox"/> Certified Mail Restricted Delivery	<input type="checkbox"/> Signature Confirmation™												
<input type="checkbox"/> Collect on Delivery	<input type="checkbox"/> Signature Confirmation Restricted Delivery												
<input type="checkbox"/> Collect on Delivery Restricted Delivery													
<p>2. Article Number (Transfer from service label)</p> <p>7019 2970 0000 4353 6192</p>													

PS Form 3811, July 2020 PSN 7530-02-000-9053 Domestic Return Receipt

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY												
<ul style="list-style-type: none"><li>■ Complete items 1, 2, and 3.</li><li>■ Print your name and address on the reverse so that we can return the card to you.</li><li>■ Attach this card to the back of the mailpiece, or on the front if space permits.</li></ul>	<p>A. Signature  <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p>												
1. Article Addressed to:	<p>B. Received by (Printed Name) C. Date of Delivery</p>												
<p>Wal-Mart Stores East, LP c/o CT Corporation System 334 North Senate Avenue Indianapolis, IN 46204</p>  <p>9590 9402 6571 1028 4455 55</p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>												
2. Article Number (Transfer from service label) 7019 2970 0000 4353 6185	<p>3. Service Type</p> <table border="0"><tr><td><input checked="" type="checkbox"/> Adult Signature</td><td><input type="checkbox"/> Priority Mail Express®</td></tr><tr><td><input type="checkbox"/> Adult Signature Restricted Delivery</td><td><input type="checkbox"/> Registered Mail™</td></tr><tr><td><input checked="" type="checkbox"/> Certified Mail®</td><td><input type="checkbox"/> Registered Mail Restricted Delivery</td></tr><tr><td><input type="checkbox"/> Certified Mail Restricted Delivery</td><td><input type="checkbox"/> Signature Confirmation™</td></tr><tr><td><input type="checkbox"/> Collect on Delivery</td><td><input type="checkbox"/> Signature Confirmation Restricted Delivery</td></tr><tr><td><input type="checkbox"/> Collect on Delivery Restricted Delivery</td><td></td></tr></table>	<input checked="" type="checkbox"/> Adult Signature	<input type="checkbox"/> Priority Mail Express®	<input type="checkbox"/> Adult Signature Restricted Delivery	<input type="checkbox"/> Registered Mail™	<input checked="" type="checkbox"/> Certified Mail®	<input type="checkbox"/> Registered Mail Restricted Delivery	<input type="checkbox"/> Certified Mail Restricted Delivery	<input type="checkbox"/> Signature Confirmation™	<input type="checkbox"/> Collect on Delivery	<input type="checkbox"/> Signature Confirmation Restricted Delivery	<input type="checkbox"/> Collect on Delivery Restricted Delivery	
<input checked="" type="checkbox"/> Adult Signature	<input type="checkbox"/> Priority Mail Express®												
<input type="checkbox"/> Adult Signature Restricted Delivery	<input type="checkbox"/> Registered Mail™												
<input checked="" type="checkbox"/> Certified Mail®	<input type="checkbox"/> Registered Mail Restricted Delivery												
<input type="checkbox"/> Certified Mail Restricted Delivery	<input type="checkbox"/> Signature Confirmation™												
<input type="checkbox"/> Collect on Delivery	<input type="checkbox"/> Signature Confirmation Restricted Delivery												
<input type="checkbox"/> Collect on Delivery Restricted Delivery													

PS Form 3811, July 2020 PSN 7530-02-000-9053

Domestic Return Receipt



STATE OF INDIANA  
IN THE LAKE SUPERIOR COURT

DINEEN JOHNSON,	)	CAUSE NO. 45D10-2202-CT-000165
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
WAL-MART STORES EAST, LP and	)	
WALMART, INC.,	)	
	)	
Defendants.	)	

APPEARANCE BY ATTORNEY IN CIVIL CASE

This Appearance Form must be filed on behalf of every party in a civil case.

1. The party on whose behalf this form is being filed is:

Initiating \_\_\_\_\_ Responding X Intervening \_\_\_\_\_; and

the undersigned attorney and all attorneys listed on this form now appear in this case for the following parties:

Name of party Wal-Mart Stores East, LP, also incorrectly sued as Walmart, Inc.

Address of party *(see Question # 6 below if this case involves a protection from abuse order, a workplace violence restraining order, or a no-contact order)*  
c/o Frost Brown Todd LLC, 201 N Illinois Street, Suite 1900, PO Box 44961,  
Indianapolis, IN 46244-0961

Telephone # of party (317) 237-3800

FAX: (317) 237-3900

Email Address: rthornburg@fbtlaw.com

*(List on a continuation page additional parties this attorney represents in this case.)*

2. Attorney information for service as required by Trial Rule 5(B)(2)

Name: Robert B. Thornburg Atty Number: 19594-02

Address: 201 N Illinois Street, Suite 1900, PO Box 44961, Indianapolis, IN 46244-09661

Phone: (317) 237-3800

FAX: (317) 237-3900 \_\_\_\_\_

Email Address: rthornburg@fbtlaw.com \_\_\_\_\_

*(List on continuation page additional attorneys appearing for above party)*

3. This is a Civil Tort case type as defined in administrative Rule 8(B)(3).
4. I will accept service from other parties by:  
FAX at the above noted number: Yes \_\_\_\_ No X  
Email at the above noted number: Yes \_\_\_\_ No X
5. This case involves child support issues. Yes \_\_\_\_ No X *(If yes, supply social security numbers for all family members on a separately attached document filed as confidential information on light green paper. Use Form TCM-TR3.1-4.)*
6. This case involves a protection from abuse order, a workplace violence restraining order, or a no – contact order. Yes \_\_\_\_ No X *(If Yes, the initiating party must provide an address for the purpose of legal service but that address should not be one that exposes the whereabouts of a petitioner.)* The party shall use the following address for purposes of legal service:

\_\_\_\_\_ Attorney's address

\_\_\_\_\_ The Attorney General Confidentiality program address

(contact the Attorney General at 1-800-321-1907 or e-mail address is **confidential@atg.in.gov**).

\_\_\_\_\_ Another address (provide)

7. This case involves a petition for involuntary commitment. Yes \_\_\_\_ No X
8. If Yes above, provide the following regarding the individual subject to the petition for involuntary commitment:
- a. Name of the individual subject to the petition for involuntary commitment if it is not already provided in #1 above: \_\_\_\_\_
- b. State of Residence of person subject to petition: \_\_\_\_\_
- c. At least one of the following pieces of identifying information:
- (i) Date of Birth \_\_\_\_\_
- (ii) Driver's License Number \_\_\_\_\_  
State where issued \_\_\_\_\_ Expiration date \_\_\_\_\_

(iii) State ID number \_\_\_\_\_

State where issued \_\_\_\_\_ Expiration date \_\_\_\_\_

(iv) FBI number \_\_\_\_\_

(v) Indiana Department of Corrections Number \_\_\_\_\_

(vi) Social Security Number is available and is being provided in an attached confidential document Yes \_\_\_\_ No \_\_\_\_

9. There are related cases: Yes \_\_\_\_ No X (*If yes, list on continuation page.*)

10. Additional information required by local rule: \_\_\_\_\_

11. There are other party members: Yes \_\_\_\_ No X (*If yes, list on continuation page.*)

12. This form has been served on all other parties and Certificate of Service is attached:

Yes X No \_\_\_\_

Respectfully submitted,

FROST BROWN TODD LLC

By /s/ Robert B. Thornburg  
Robert B. Thornburg, #19594-02  
*Attorney for Defendant Wal-Mart Stores  
East, LP, also incorrectly sued as Walmart,  
Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that on the 18th day of March, 2022 a copy of the foregoing was served upon all parties through the Court's ECF System. Notice of this filing will be sent to the following parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

Julie A. Dugan  
RUBINO, RUMAN, CROSMER & POLEN  
275 Joliet Street, Suite 330  
Dyer, IN 46311  
jdugan@rubinoruman.com  
*Attorney for Plaintiff*

/s/ Robert B. Thornburg

FROST BROWN TODD LLC  
201 N Illinois St., Suite 1900  
PO Box 44961  
Indianapolis, IN 46244-0961  
317-237-3800  
Fax: 317-237-3900  
rthornburg@fbtlaw.com

LR08000.0754862 4856-3258-0118v1

STATE OF INDIANA      **Filed in Open Court**      IN THE LAKE SUPERIOR COURT, CIVIL DIVISION 6  
COUNTY OF LAKE      **March 18, 2022**      2293 N MAIN STREET  
DINEEN JOHNSON      *Lorenzo Arredondo*      CROWN POINT INDIANA 46307  
V.      CLERK LAKE SUPERIOR COURT      CASE NUMBER: 45D10-2202-CT-000165  
MM  
WAL-MART STORES EAST, LP, WALMART, INC.

**ORDER SCHEDULING ZOOM CASE MANAGEMENT CONFERENCE**

The **COURT** pursuant to Local Rule 9 and T.R. 16(A) orders that any parties appearing *pro se* in this cause and all counsel of record shall:

By **Zoom** appear for a Case Management Conference before a judicial officer of this Court on **August 29, 2022** promptly at **1:30 PM** to consider:

- a) The possibility of agreement or settlement;
- b) The possibility of disposing of the cause by default or in summary fashion as to some or all parties or as to some or all claims;
- c) The establishment of a bar date for dispositive motions;
- d) The simplification of the issues;
- e) The necessity or desirability of amendments to the pleadings;
- f) The possibility of obtaining admissions or stipulations of fact, law, and the admissibility and authenticity of exhibits which will avoid unnecessary proof;
- g) A limitation of the number of expert witnesses;
- h) An exchange of the names of witnesses to be called during the trial and the general nature of their expected testimony;
- i) Whether the parties are prepared to submit the matter for trial or if the matter should be set for further Status or Pre-Trial Conferences;
- j) The need for discovery, appropriate limitations thereon (if any) and a deadline for the completion of the same;
- k) The utilization of one or more methods of Alternative Dispute Resolution; and
- l) Such other matters as may aid in the disposition of the action.

---

Pursuant to T.R. 16(K) and T.R. 41(E), failure to attend the Case Management Conference may result in the entry of an order of dismissal or default against the party or parties failing to appear. In addition, the Court may impose sanctions against any counsel or party who fails to attend the Case Management Conference, is grossly unprepared to participate therein, or refuses in bad faith to enter into stipulations regarding the facts, law or exhibits.

No continuance of the Case Management Conference may be obtained by telephone or other oral request or otherwise be obtained except by prior order upon written motion in strict compliance with the provisions of T. R. 53.5 and Local Rule 7.

At the conclusion at the Case Management Conference, the Court may schedule the cause for trial or order that additional Status or Pre-Trial Conferences be conducted.

**COUNSEL ARE DIRECTED TO HAVE THEIR CALENDARS AVAILABLE DURING THE CASE MANAGEMENT CONFERENCE TO FACILITATE THE SCHEDULING OF ADDITIONAL HEARINGS.**

SO ORDERED on this the 18th day of March, 2022.

*Kathleen B. Lang*  
Kathleen B. Lang, Judge Pro Tem  
Lake Superior Court, Civil Division 6



**STATE OF INDIANA  
IN THE LAKE SUPERIOR COURT**

DINEEN JOHNSON,	)	CAUSE NO. 45D10-2202-CT-000165
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
WAL-MART STORES EAST, LP and	)	
WALMART, INC.,	)	
	)	
Defendants.	)	

**DEFENDANT WAL-MART STORES EAST, LP'S ANSWER TO  
PLAINTIFF'S COMPLAINT FOR DAMAGES**

Defendant Wal-Mart Stores East, LP, also incorrectly sued and identified as Walmart, Inc. ("Wal-Mart"), by counsel, for its Answer to Plaintiff's Complaint for Damages states as follows:

1. Wal-Mart admits that it is licensed to do business in the State of Indiana, but denies the remaining allegations contained in rhetorical paragraph 1.
2. Wal-Mart admits the allegations contained in rhetorical paragraph 2.
3. Wal-Mart denies the allegations contained in rhetorical paragraph 3; however, would admit that Walmart Inc. is located at 702 SW 8<sup>th</sup> Street, Bentonville, AR 72712.
4. Wal-Mart admits it sells Great Value cooked shrimp in the State of Indiana, but denies the remaining allegations contained in rhetorical paragraph 4.
5. Wal-Mart is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in rhetorical paragraph 5.
6. Wal-Mart is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in rhetorical paragraph 6.

7. Wal-Mart is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in rhetorical paragraph 7.

8. Wal-Mart is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in rhetorical paragraph 8.

9. Wal-Mart denies the allegations contained in rhetorical paragraph 9.

WHEREFORE, Defendant Wal-Mart Stores East, LP, also incorrectly sued and identified as Walmart, Inc., by counsel, respectfully prays that Plaintiff take nothing by way of her Complaint for Damages, for its costs incurred in defending this action, and for all other just and proper relief in the premises.

Respectfully submitted,

FROST BROWN TODD LLC

By /s/ Robert B. Thornburg  
Robert B. Thornburg, #19594-02  
*Attorney for Defendant Wal-Mart Stores  
East, LP, also incorrectly sued as Walmart,  
Inc.*

### **AFFIRMATIVE DEFENSES**

Defendant Wal-Mart Stores East, LP, also incorrectly sued and identified as Walmart, Inc., by counsel, for its Affirmative Defenses to Plaintiff's Complaint for Damages states as follows:

1. Plaintiff's damages were caused by her own negligence and any recovery by her is therefore barred or should be reduced pursuant to Indiana's Comparative Fault Act.

2. Wal-Mart is entitled to a set-off or credit in the event Plaintiff has received or will receive payments from other sources which would result in a double recovery.

3. Plaintiff failed to mitigate her damages, if any.

4. Plaintiff's fault includes, *inter alia*, her assumption of the risk and incurred risk.

5. Although Wal-Mart denies the existence of a defect as alleged by Plaintiff, if Plaintiff was aware of a defect and proceeded to eat the product, such use would bar any recovery by Plaintiff.

6. At all relevant times, the shrimp complied with all applicable government codes, standards, regulations, or specifications, and therefore Wal-Mart is entitled to a presumption that the shrimp was not defective and that Wal-Mart was not negligent.

7. The fault of a currently unknown non-party, the manufacturer of the shrimp, caused or contributed to cause the damages complained of, thereby barring or reducing any recovery by Plaintiff pursuant to the Indiana Comparative Fault Act.

8. Wal-Mart was a retail seller and did not grow, manufacture, process or package the shrimp and therefore cannot be held liable for any defect in the shrimp.

WHEREFORE, Defendant Wal-Mart Stores East, LP, also incorrectly sued as Walmart, Inc., by counsel, respectfully prays that Plaintiff take nothing by way of her Complaint for Damages, for its costs incurred in defending this action, and for all other just and proper relief in the premises.

**REQUEST FOR JURY TRIAL**

Comes now Defendant, Wal-Mart Stores East, LP, also incorrectly sued as Walmart, Inc., by counsel, and requests trial by jury in this matter.

Respectfully submitted,

FROST BROWN TODD LLC

By /s/ Robert B. Thornburg  
Robert B. Thornburg, #19594-02  
*Attorney for Defendant Wal-Mart Stores  
East, LP, also incorrectly sued as Walmart,  
Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that on the 18th day of March, 2022, a copy of the foregoing was served upon all parties through the Court's ECF System. Notice of this filing will be sent to the following parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

Julie A. Dugan  
RUBINO, RUMAN, CROSMER & POLEN  
275 Joliet Street, Suite 330  
Dyer, IN 46311  
jdugan@rubinoruman.com  
*Attorney for Plaintiff*

/s/ Robert B. Thornburg

FROST BROWN TODD LLC  
201 N Illinois St., Suite 1900  
PO Box 44961  
Indianapolis, IN 46244-0961  
317-237-3800  
Fax: 317-237-3900  
rthornburg@fbtlaw.com

LR08000.0754862 4879-4986-7798v1

STATE OF INDIANA	)	IN THE LAKE SUPERIOR COURT
	) SS:	
COUNTY OF LAKE	)	CROWN POINT, INDIANA
DINEEN JOHNSON,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Cause No.: 45D10-2202-CT-000165
	)	
WAL-MART STORES EAST, LP and	)	
WALMART, INC.	)	
	)	
Defendants.	)	

**MOTION FOR LEAVE TO FILE FIRST AMENDED COMPLAINT**

Comes now the plaintiff, by counsel, and moves the Court for leave to file her First Amended Complaint for Damages and Jury Demand, and in support thereof, states as follows:

1. Plaintiff has recently learned through discovery and investigation that the manufacturer of the Great Value Cooked Shrimp referenced in Plaintiff's Complaint is C.P. Food Products Inc. d/b/a Captn's Pack and/or C.P. Foods USA.
2. Based on this information, the plaintiff moves to add C.P. Food Products Inc. d/b/a Captn's Pack and C.P. Foods USA as additional defendants.
3. An amendment adding C.P. Food Products Inc. d/b/a Captn's Pack and C.P. Foods USA as defendants creates no legal prejudice to defendants Wal-Mart Stores East, LP and Walmart, Inc.



4. The above-referenced item was first purchased on April 16, 2020 and therefore, the statute of limitations does not run until April 16, 2022, making the amendment timely.

WHEREFORE, plaintiff prays the Court allow amendment of the Complaint, and for all other relief just and proper in the premises.

/s/ Julie A. Dugan  
JULIE A. DUGAN (#22637-45)  
Rubino, Ruman, Crosmer & Polen, LLC  
275 Joliet Street, Suite 330  
Dyer, IN 46311  
(219) 322-8222  
jdugan@rubinoruman.com  
Attorney for Plaintiff

Certificate of Service

I certify that on the 15th day of April, 2022, I electronically filed the above and foregoing pleading or paper with the Clerk of the Court using the Court's e-filing service and service of the foregoing pleadings or papers were made on all parties or attorneys of record herein via the Indiana E-filing system.

/s/ Julie A. Dugan

STATE OF INDIANA        )  
                                  ) SS:  
COUNTY OF LAKE        )  
                                  ) CROWN POINT, INDIANA

DINEEN JOHNSON,

Plaintiff,

v.

WAL-MART STORES EAST, LP,  
WALMART, INC., C.P. FOOD  
PRODUCTS INC. d/b/a CAPTN'S PACK, and  
C.P. FOODS USA,

Defendants.

)  
)  
)  
)  
) Cause No.: 45D10-2202-CT-000165

FILED IN OPEN COURT

May 18, 2022

*Rub. Adat Lopez*

SS  
JUDGE, LAKE SUPERIOR COURT,  
CIVIL DIVISION, ROOM 6  
SS

**FIRST AMENDED COMPLAINT FOR DAMAGES AND JURY DEMAND**

**COUNT I**

Comes now the plaintiff, Dineen Johnson, by counsel, Julie A. Dugan of Rubino, Ruman, Crosmer, & Polen, and for her cause of action against the defendants, Wal-Mart Stores East, LP and Walmart, Inc., states as follows:

1. That the defendant, Wal-Mart Stores East, LP, is a corporation licensed to do business in the State of Indiana.
2. That the defendant, Wal-Mart Stores East, LP, operates store #2544 (Store #2544) located at 6087 US Highway 6, Portage, IN 46368.
3. That the defendant, Walmart Inc. is located at 702 SW 8<sup>th</sup> Street, Bentonville, AZ 72712.
4. That the Defendants manufacture, distribute, and sell Great Value Cooked Shrimp in the State of Indiana.

5. That on April 16, 2020 and May 13, 2020, the plaintiff, Dineen Johnson, purchased large and extra-large frozen Great Value Cooked Shrimp, Peeled, Deveined and Tail-On from Store #2544.

6. While eating one package of the shrimp, Plaintiff Dineen Johnson encountered a black substance within the shrimp.

7. The plaintiff became ill after coming in to contact with the black substance and has required medical treatment for care of her injuries. As a direct and proximate result, she has incurred medical expenses and mental distress.

8. When the plaintiff sustained her injuries, she was a consumer and the defendants were the manufacturers, distributors, and sellers.

9. The defendants placed into the stream of commerce a product in a defective condition unreasonably dangerous to the plaintiff and, pursuant to I. C. § 34-20-2 et. seq., the defendants are strictly liable to the plaintiff for injuries and damages.

WHEREFORE, the plaintiff seeks compensatory damages which will reasonably compensate her, plus costs, including attorneys' fees for any frivolously asserted affirmative defenses, prejudgment interest and any other proper relief.

/s/ Julie A. Dugan  
Julie A. Dugan, #22637-45  
RUBINO, RUMAN, CROSMER,  
& POLEN  
Attorney for Plaintiff

COUNT II

Comes now the plaintiff, Dineen Johnson, by counsel, Julie A. Dugan of Rubino, Ruman, Crosmer, & Polen, and for her cause of action against the defendants, C.P. Food Products Inc. d/b/a Captn's Pack and C.P. Foods USA, states as follows:

1.-9. That the plaintiff adopts, realleges, and incorporates herein Paragraphs 1 through 9 of Count I of her Complaint as though fully set forth herein.

10. That the Defendants are corporations licensed to do business in the State of Indiana.

11. That the Defendants manufacture, distribute, and sell Great Value Cooked Shrimp in the State of Indiana.

12. That on April 16, 2020 and May 13, 2020, the plaintiff, Dineen Johnson, purchased large and extra-large frozen Great Value Cooked Shrimp, Peeled, Deveined and Tail-On from Store #2544.

13. While eating one package of the shrimp, Plaintiff Dineen Johnson encountered a black substance within the shrimp.

14. The plaintiff became ill after coming in to contact with the black substance and has required medical treatment for care of her injuries. As a direct and proximate result, she has incurred medical expenses and mental distress.

15. When the plaintiff sustained her injuries, she was a consumer and the Defendants were the manufacturers, distributors, and sellers.

16. The defendants placed into the stream of commerce a product in a

defective condition unreasonably dangerous to the plaintiff and, pursuant to I. C. § 34-20-2 et. seq., the defendants are strictly liable to the plaintiff for injuries and damages.

WHEREFORE, the plaintiff seeks compensatory damages which will reasonably compensate her, plus costs, including attorneys' fees for any frivolously asserted affirmative defenses, prejudgment interest and any other proper relief.

/s/ Julie A. Dugan  
Julie A. Dugan, #22637-45  
RUBINO, RUMAN, CROSMER,  
& POLEN  
Attorney for Plaintiff

**JURY DEMAND**

Plaintiff, by counsel, demands trial by jury.

/s/ Julie A. Dugan  
Julie A. Dugan, #22637-45  
RUBINO, RUMAN, CROSMER,  
& POLEN  
275 Joliet Street, Suite 330  
Dyer, IN 46311  
(219) 322-8222  
[jdugan@rubinoruman.com](mailto:jdugan@rubinoruman.com)  
Attorney for Plaintiff



Certified Mail labels and return receipts must be furnished for each mailing and the cause number must appear on each return receipt, which shall be returnable to the Clerk at the address of the Court. (Form: CS 1/97)

**CLERK'S CERTIFICATE OF MAILING**

I hereby certify that on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, I mailed a copy of this Summons and a copy of the Complaint to the Defendant, by certified mail, requesting a return receipt, at the address furnished by the Plaintiff.

\_\_\_\_\_  
Lorenzo Arredondo, Clerk of the Lake Superior Court

Date: \_\_\_\_\_

By \_\_\_\_\_ (Deputy)

**RETURN ON SERVICE OF SUMMONS BY MAIL**

I hereby certify that the attached return receipt was received by me showing that the Summons and a copy of the Complaint was mailed to the Defendant, was accepted by the Defendant on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

I hereby certify that the attached return receipt was received by me showing that the Summons and a copy of the Complaint was returned not accepted on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Lorenzo Arredondo, Clerk of the Lake Superior Court

By \_\_\_\_\_ (Deputy)

**RETURN OF SERVICE OF SUMMONS BY SHERIFF**

I hereby certify that I have served the within Summons:

1. By delivering on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, a copy of this Summons, a copy of the Complaint, and all other materials filed the same date to each of the within named person(s).
  2. By leaving on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, for each of the within named person(s), \_\_\_\_\_ a copy of the Summons, a copy of the Complaint, and all other materials filed the same date at the respective dwelling house or usual place of abode of \_\_\_\_\_ in \_\_\_\_\_, Indiana, with a person of suitable age and discretion residing within, whose usual duties or activities include prompt communication of such information to the person served, or by otherwise leaving such process thereat, and by mailing a copy of the Summons without the Complaint to the said named person(s) at the address listed herein.
  3. This Summons came to hand this date, \_\_\_\_\_, 20\_\_\_\_. The within named, \_\_\_\_\_, was not found to my bailiwick this date, \_\_\_\_\_, 20\_\_\_\_.
- ALL DONE IN LAKE COUNTY, INDIANA.

\_\_\_\_\_  
Sheriff of Lake County, Indiana

By \_\_\_\_\_

**SERVICE ACKNOWLEDGED**

A copy of the within Summons, a copy of the Complaint, and all materials filed the same date attached hereto were received by me at \_\_\_\_\_, in \_\_\_\_\_, Indiana, on this date, \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Signature of Defendant

STATE OF INDIANA )  
 ) SS:  
COUNTY OF LAKE )  
CROWN POINT, INDIANA

DINEEN JOHNSON, )  
Plaintiff, )  
-vs- ) CAUSE NO.: 45D10-2202-CT-000165  
WAL-MART STORES EAST, LP, )  
WALMART, INC., C.P. FOOD PRODUCTS INC. )  
d/b/a CAPTN'S PACK, and C.P. FOODS USA, )  
Defendants. )

**SUMMONS**

THE STATE OF INDIANA TO THE DEFENDANT: C.P. Foods USA  
7135 Minstrel Way  
Suite 203  
Columbia, MD 21045

You have been sued by the person(s) identified as "Plaintiff" in the Court stated above.

The nature of the suit against you is stated in the Complaint, which is attached to this Summons. It also states the demand which the Plaintiff has made against you.

You must either personally or by your attorney, file your written answer to the Complaint with the Clerk within twenty (20) days commencing the day after this Summons and the Complaint were personally served upon you or your agent or left for you by the Sheriff or other process server.

In the event the Summons and Complaint were left for you and you then receive by first class mail (not certified), a copy of the Summons alone, this mailing is merely a confirmation that the Summons and Complaint were previously left for you. You should not consider the date on which you receive the mailed Summons as the commencement date for the time period allowed for your answer. Rather, the time period allowed for your written answer commences on the date when the Summons and Complaint were first personally served upon you or your agent or left for you by the Sheriff or other process server.

However, if you and your agent first received the Summons and the Complaint by certified mail, you have twenty-three (23) days from the date of receipt to file your written answer with the Clerk.

If you fail to answer the Complaint of the Plaintiff within the times prescribed herein, judgment will be entered against you for what the Plaintiff has demanded.

If you have a claim against the Plaintiff arising from the same transaction or occurrence, you may be required to assert such claim in writing together with your written answer.

Manner of Service: **Certified Mail**

Date: **May 23, 2022**, 2022

Attorney Julie A. Dugan - #22637-45  
RUBINO, RUMAN, CROSMER & POLEN, LLC  
275 Joliet Street, Suite 330  
Dyer, IN 46311  
(219) 322-8222 (telephone)  
(219) 322-6675 (fax)

*Lorenzo Arredondo*  
DA  
Lorenzo Arredondo, SR Clerk of the Lake Superior Court  
By DA (Deputy)

**PREPARATION DATA:**

All Summons are to be prepared in triplicate with the original of each to be placed in the Court file with two copies available for service. If service is by certified mail, a properly addressed envelope shall be provided for each Defendant.

Certified Mail labels and return receipts must be furnished for each mailing and the cause number must appear on each return receipt, which shall be returnable to the Clerk at the address of the Court. (Form: CS 1/97)



**CLERK'S CERTIFICATE OF MAILING**

I hereby certify that on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, I mailed a copy of this Summons and a copy of the Complaint to the Defendant, by certified mail, requesting a return receipt, at the address furnished by the Plaintiff.

\_\_\_\_\_  
Lorenzo Arredondo, Clerk of the Lake Superior Court

Date: \_\_\_\_\_

By \_\_\_\_\_ (Deputy)

**RETURN ON SERVICE OF SUMMONS BY MAIL**

I hereby certify that the attached return receipt was received by me showing that the Summons and a copy of the Complaint was mailed to the Defendant, was accepted by the Defendant on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

I hereby certify that the attached return receipt was received by me showing that the Summons and a copy of the Complaint was returned not accepted on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Lorenzo Arredondo, Clerk of the Lake Superior Court

By \_\_\_\_\_ (Deputy)

**RETURN OF SERVICE OF SUMMONS BY SHERIFF**

I hereby certify that I have served the within Summons:

1. By delivering on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, a copy of this Summons, a copy of the Complaint, and all other materials filed the same date to each of the within named person(s).
2. By leaving on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, for each of the within named person(s), \_\_\_\_\_ a copy of the Summons, a copy of the Complaint, and all other materials filed the same date at the respective dwelling house or usual place of abode of \_\_\_\_\_ in \_\_\_\_\_, Indiana, with a person of suitable age and discretion residing within, whose usual duties or activities include prompt communication of such information to the person served, or by otherwise leaving such process thereat, and by mailing a copy of the Summons without the Complaint to the said named person(s) at the address listed herein.
3. This Summons came to hand this date, \_\_\_\_\_, 20\_\_\_\_. The within named, \_\_\_\_\_, was not found to my bailiwick this date, \_\_\_\_\_, 20\_\_\_\_.  
ALL DONE IN LAKE COUNTY, INDIANA.

\_\_\_\_\_  
Sheriff of Lake County, Indiana

By \_\_\_\_\_

**SERVICE ACKNOWLEDGED**

A copy of the within Summons, a copy of the Complaint, and all materials filed the same date attached hereto were received by me at \_\_\_\_\_, in \_\_\_\_\_, Indiana, on this date, \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Signature of Defendant

STATE OF INDIANA )  
 ) SS:  
COUNTY OF LAKE )

IN THE LAKE SUPERIOR COURT  
  
CROWN POINT, INDIANA

DINEEN JOHNSON,

Plaintiff,

v.

WAL-MART STORES EAST, LP and )  
WALMART, INC. )

Defendants. )

Cause No.: 45D10-2202-CT-000165

FILED IN OPEN COURT

May 18, 2022

*Rub. Adat-Lopez*

JUDGE, LAKE SUPERIOR COURT,  
CIVIL DIVISION, ROOM 6

SS

**ORDER**

Comes now the Court, and having reviewed plaintiff's Motion for Leave to File First Amended Complaint, GRANTS same. Plaintiff's First Amended Complaint for Damages and Jury Demand is hereby deemed filed.

SO ORDERED this \_\_\_\_\_ day of May 18, 2022, 2022.

*Rub. Adat-Lopez*

JUDGE, LAKE SUPERIOR COURT

SS

Distribution:

Julie A. Dugan

Robert B. Thornburg



DA



1. That the defendant, Wal-Mart Stores East, LP, is a corporation licensed to do business in the State of Indiana.
2. That the defendant, Wal-Mart Stores East, LP, operates store #2544 (Store #2544) located at 6087 US Highway 6, Portage, IN 46368.
3. That the defendant, Walmart Inc. is located at 702 SW 8<sup>th</sup> Street, Bentonville, AZ 72712.
4. That the Defendants manufacture, distribute, and sell Great Value Cooked Shrimp in the State of Indiana.

5. That on April 16, 2020 and May 13, 2020, the plaintiff, Dineen Johnson, purchased large and extra-large frozen Great Value Cooked Shrimp, Peeled, Deveined and Tail-On from Store #2544.

6. While eating one package of the shrimp, Plaintiff Dineen Johnson encountered a black substance within the shrimp.

7. The plaintiff became ill after coming in to contact with the black substance and has required medical treatment for care of her injuries. As a direct and proximate result, she has incurred medical expenses and mental distress.

8. When the plaintiff sustained her injuries, she was a consumer and the defendants were the manufacturers, distributors, and sellers.

9. The defendants placed into the stream of commerce a product in a defective condition unreasonably dangerous to the plaintiff and, pursuant to I. C. § 34-20-2 et. seq., the defendants are strictly liable to the plaintiff for injuries and damages.

WHEREFORE, the plaintiff seeks compensatory damages which will reasonably compensate her, plus costs, including attorneys' fees for any frivolously asserted affirmative defenses, prejudgment interest and any other proper relief.

/s/ Julie A. Dugan  
Julie A. Dugan, #22637-45  
RUBINO, RUMAN, CROSMER,  
& POLEN  
Attorney for Plaintiff

COUNT II

Comes now the plaintiff, Dineen Johnson, by counsel, Julie A. Dugan of Rubino, Ruman, Crosmer, & Polen, and for her cause of action against the defendants, C.P. Food Products Inc. d/b/a Captn's Pack and C.P. Foods USA, states as follows:

1.-9. That the plaintiff adopts, realleges, and incorporates herein Paragraphs 1 through 9 of Count I of her Complaint as though fully set forth herein.

10. That the Defendants are corporations licensed to do business in the State of Indiana.

11. That the Defendants manufacture, distribute, and sell Great Value Cooked Shrimp in the State of Indiana.

12. That on April 16, 2020 and May 13, 2020, the plaintiff, Dineen Johnson, purchased large and extra-large frozen Great Value Cooked Shrimp, Peeled, Deveined and Tail-On from Store #2544.

13. While eating one package of the shrimp, Plaintiff Dineen Johnson encountered a black substance within the shrimp.

14. The plaintiff became ill after coming in to contact with the black substance and has required medical treatment for care of her injuries. As a direct and proximate result, she has incurred medical expenses and mental distress.

15. When the plaintiff sustained her injuries, she was a consumer and the Defendants were the manufacturers, distributors, and sellers.

16. The defendants placed into the stream of commerce a product in a

defective condition unreasonably dangerous to the plaintiff and, pursuant to I.C. § 34-20-2 et. seq., the defendants are strictly liable to the plaintiff for injuries and damages.

WHEREFORE, the plaintiff seeks compensatory damages which will reasonably compensate her, plus costs, including attorneys' fees for any frivolously asserted affirmative defenses, prejudgment interest and any other proper relief.

/s/ Julie A. Dugan  
Julie A. Dugan, #22637-45  
RUBINO, RUMAN, CROSMER,  
& POLEN  
Attorney for Plaintiff

**JURY DEMAND**

Plaintiff, by counsel, demands trial by jury.

/s/ Julie A. Dugan  
Julie A. Dugan, #22637-45  
RUBINO, RUMAN, CROSMER,  
& POLEN  
275 Joliet Street, Suite 330  
Dyer, IN 46311  
(219) 322-8222  
jdugan@rubinoruman.com  
Attorney for Plaintiff

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY																
<ul style="list-style-type: none"><li>■ Complete items 1, 2, and 3.</li><li>■ Print your name and address on the reverse so that we can return the card to you.</li><li>■ Attach this card to the back of the mailpiece, or on the front if space permits.</li></ul>	<p>A. Signature <b>X</b> <i>J. Amy</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <i>J. Amy</i> C. Date of Delivery <i>5/28/22</i></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input checked="" type="checkbox"/> No</p>																
<p>1 Article Addressed to:</p> <p>C.P. Food Products, Inc. d/b/a Capt'n's Pack 7135 Minstrel Way Suite 203 Columbia, MD 21045</p> <p> 9590 9402 6571 1028 4469 96</p>	<p>3. Service Type</p> <table border="0"><tr><td><input checked="" type="checkbox"/> Adult Signature</td><td><input type="checkbox"/> Priority Mail Express®</td></tr><tr><td><input type="checkbox"/> Adult Signature Restricted Delivery</td><td><input type="checkbox"/> Registered Mail™</td></tr><tr><td><input checked="" type="checkbox"/> Certified Mail®</td><td><input type="checkbox"/> Registered Mail Restricted Delivery</td></tr><tr><td><input type="checkbox"/> Certified Mail Restricted Delivery</td><td><input type="checkbox"/> Signature Confirmation™</td></tr><tr><td><input type="checkbox"/> Collect on Delivery</td><td><input type="checkbox"/> Signature Confirmation Restricted Delivery</td></tr><tr><td><input type="checkbox"/> Collect on Delivery Restricted Delivery</td><td></td></tr><tr><td><input type="checkbox"/> Insured Mail</td><td></td></tr><tr><td><input type="checkbox"/> Registered Mail Restricted Delivery (\$500)</td><td></td></tr></table>	<input checked="" type="checkbox"/> Adult Signature	<input type="checkbox"/> Priority Mail Express®	<input type="checkbox"/> Adult Signature Restricted Delivery	<input type="checkbox"/> Registered Mail™	<input checked="" type="checkbox"/> Certified Mail®	<input type="checkbox"/> Registered Mail Restricted Delivery	<input type="checkbox"/> Certified Mail Restricted Delivery	<input type="checkbox"/> Signature Confirmation™	<input type="checkbox"/> Collect on Delivery	<input type="checkbox"/> Signature Confirmation Restricted Delivery	<input type="checkbox"/> Collect on Delivery Restricted Delivery		<input type="checkbox"/> Insured Mail		<input type="checkbox"/> Registered Mail Restricted Delivery (\$500)	
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<p>2 Article Number (Transfer from service label)</p> <p>7013 2250 0001 4087 6015</p>																	

PS Form 3811, July 2020 PSN 7530-02-000-9053

Domestic Return Receipt



SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY																
<ul style="list-style-type: none"><li>■ Complete items 1, 2, and 3.</li><li>■ Print your name and address on the reverse so that we can return the card to you.</li><li>■ Attach this card to the back of the mailpiece, or on the front if space permits.</li></ul>	<p>A. Signature <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <input checked="" type="checkbox"/> Date of Delivery</p> <p>C. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input checked="" type="checkbox"/> No</p>																
<p>1. Article Addressed to:</p> <p>C.P. Foods USA 7135 Minstrel Way Suite 203 Columbia, MD 21045</p> <p>9590 9402 6571 1028 4469 89</p> <p>2. Article Number (Transfer from service label) 7013 2250 0001 4087 6022</p>	<p>3. Service Type</p> <table><tbody><tr><td><input checked="" type="checkbox"/> Adult Signature</td><td><input type="checkbox"/> Priority Mail Express®</td></tr><tr><td><input type="checkbox"/> Adult Signature Restricted Delivery</td><td><input type="checkbox"/> Registered Mail™</td></tr><tr><td><input checked="" type="checkbox"/> Certified Mail®</td><td><input type="checkbox"/> Registered Mail Restricted Delivery</td></tr><tr><td><input type="checkbox"/> Certified Mail Restricted Delivery</td><td><input type="checkbox"/> Signature Confirmation™</td></tr><tr><td><input type="checkbox"/> Collect on Delivery</td><td><input type="checkbox"/> Signature Confirmation Restricted Delivery</td></tr><tr><td><input type="checkbox"/> Collect on Delivery Restricted Delivery</td><td></td></tr><tr><td><input type="checkbox"/> Insured Mail</td><td></td></tr><tr><td><input type="checkbox"/> Insured Mail Restricted Delivery (\$500)</td><td></td></tr></tbody></table>	<input checked="" type="checkbox"/> Adult Signature	<input type="checkbox"/> Priority Mail Express®	<input type="checkbox"/> Adult Signature Restricted Delivery	<input type="checkbox"/> Registered Mail™	<input checked="" type="checkbox"/> Certified Mail®	<input type="checkbox"/> Registered Mail Restricted Delivery	<input type="checkbox"/> Certified Mail Restricted Delivery	<input type="checkbox"/> Signature Confirmation™	<input type="checkbox"/> Collect on Delivery	<input type="checkbox"/> Signature Confirmation Restricted Delivery	<input type="checkbox"/> Collect on Delivery Restricted Delivery		<input type="checkbox"/> Insured Mail		<input type="checkbox"/> Insured Mail Restricted Delivery (\$500)	
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**STATE OF INDIANA  
IN THE LAKE SUPERIOR COURT**

DINEEN JOHNSON,	)	CAUSE NO. 45D10-2202-CT-000165
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
WAL-MART STORES EAST, LP,	)	
WALMART, INC., C.P. FOOD	)	
PRODUCTS INC. d/b/a CAPTN'S PACK	)	
and C.P. FOODS USA,	)	
	)	
Defendants.	)	

**DEFENDANT WAL-MART STORES EAST, LP'S ANSWER TO  
PLAINTIFF'S FIRST AMENDED COMPLAINT FOR DAMAGES**

Defendant Wal-Mart Stores East, LP, also incorrectly sued and identified as Walmart, Inc. ("Wal-Mart"), by counsel, for its Answer to Plaintiff's First Amended Complaint for Damages states as follows:

1. Wal-Mart admits that it is licensed to do business in the State of Indiana, but denies the remaining allegations contained in rhetorical paragraph 1.
2. Wal-Mart admits the allegations contained in rhetorical paragraph 2.
3. Wal-Mart denies the allegations contained in rhetorical paragraph 3; however, would admit that Walmart Inc. is located at 702 SW 8<sup>th</sup> Street, Bentonville, AR 72712.
4. Wal-Mart admits it sells Great Value cooked shrimp in the State of Indiana, but denies the remaining allegations contained in rhetorical paragraph 4.
5. Wal-Mart is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in rhetorical paragraph 5 and therefore denies the same.

6. Wal-Mart is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in rhetorical paragraph 6 and therefore denies the same.

7. Wal-Mart is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in rhetorical paragraph 7 and therefore denies the same.

8. Wal-Mart is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in rhetorical paragraph 8 and therefore denies the same.

9. Wal-Mart denies the allegations contained in rhetorical paragraph 9.

WHEREFORE, Defendant Wal-Mart Stores East, LP, also incorrectly sued and identified as Walmart, Inc., by counsel, respectfully prays that Plaintiff take nothing by way of her First Amended Complaint for Damages, for its costs incurred in defending this action, and for all other just and proper relief in the premises.

Respectfully submitted,

FROST BROWN TODD LLC

By /s/ Robert B. Thornburg  
Robert B. Thornburg, #19594-02  
*Attorney for Defendant Wal-Mart Stores  
East, LP, also incorrectly sued as Walmart,  
Inc.*

#### **AFFIRMATIVE DEFENSES**

Defendant Wal-Mart Stores East, LP, also incorrectly sued and identified as Walmart, Inc., by counsel, for its Affirmative Defenses to Plaintiff's First Amended Complaint for Damages states as follows:

1. Plaintiff's damages were caused by her own negligence and any recovery by her is therefore barred or should be reduced pursuant to Indiana's Comparative Fault Act.

2. Wal-Mart is entitled to a set-off or credit in the event Plaintiff has received or will receive payments from other sources which would result in a double recovery.

3. Plaintiff failed to mitigate her damages, if any.

4. Plaintiff's fault includes, *inter alia*, her assumption of the risk and incurred risk.

5. Although Wal-Mart denies the existence of a defect as alleged by Plaintiff, if Plaintiff was aware of a defect and proceeded to eat the product, such use would bar any recovery by Plaintiff.

6. At all relevant times, the shrimp complied with all applicable government codes, standards, regulations, or specifications, and therefore Wal-Mart is entitled to a presumption that the shrimp was not defective and that Wal-Mart was not negligent.

7. The fault of a currently unknown non-party, the manufacturer of the shrimp, caused or contributed to cause the damages complained of, thereby barring or reducing any recovery by Plaintiff pursuant to the Indiana Comparative Fault Act.

8. Wal-Mart was a retail seller and did not grow, manufacture, process or package the shrimp and therefore cannot be held liable for any defect in the shrimp.

WHEREFORE, Defendant Wal-Mart Stores East, LP, also incorrectly sued as Walmart, Inc., by counsel, respectfully prays that Plaintiff take nothing by way of her First Amended Complaint for Damages, for its costs incurred in defending this action, and for all other just and proper relief in the premises.

**REQUEST FOR JURY TRIAL**

Comes now Defendant, Wal-Mart Stores East, LP, also incorrectly sued as Walmart, Inc., by counsel, and requests trial by jury in this matter.

Respectfully submitted,

FROST BROWN TODD LLC

By /s/ Robert B. Thornburg  
Robert B. Thornburg, #19594-02  
*Attorney for Defendant Wal-Mart Stores  
East, LP, also incorrectly sued as Walmart,  
Inc.*



**CERTIFICATE OF SERVICE**

I hereby certify that on this 7<sup>th</sup> day of June, 2022, a copy of the foregoing was filed electronically. Notice of this filing will be sent to the following parties by operation of the Court's electronic filing system.

Julie A. Dugan  
RUBINO, RUMAN, CROSMER & POLEN  
275 Joliet Street, Suite 330  
Dyer, IN 46311  
jdugan@rubinoruman.com  
*Attorney for Plaintiff*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 7<sup>th</sup> day of June, 2022, a copy of the foregoing was sent to the following parties by U.S. First Class Mail, postage prepaid:

C.P. Food Products, Inc. d/b/a Captn's Pack  
7135 Minstrel Way, Suite 203  
Columbia, MD 21045

C.P. Foods USA  
7135 Minstrel Way, Suite 203  
Columbia, MD 21045

/s/ Robert B. Thornburg

FROST BROWN TODD LLC  
201 N Illinois St., Suite 1900  
PO Box 44961  
Indianapolis, IN 46244-0961  
317-237-3800  
Fax: 317-237-3900  
rthornburg@fbtlaw.com

LR08000.0754862 4879-5083-6259v1

STATE OF INDIANA )  
 ) SS IN THE LAKE SUPERIOR COURT  
COUNTY OF LAKE ) CROWN POINT, INDIANA  
CAUSE NO.: 45D10-2202-CT-000165

DINEEN JOHNSON, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
WAL-MART STORES EAST, LP, )  
WALMART, INC., C.P. FOOD )  
PRODUCTS INC. d/b/a CAPTN'S )  
PACK, and C.P. FOODS USA, )  
 )  
Defendants. )

**APPEARANCE**

1. Case Number: 45D10-2202-CT-000165
2. Party Classification: Initiating \_\_\_\_\_ Responding X Intervening \_\_\_\_\_
3. The undersigned attorney now appears for the following party:

**C.P. Food Products Inc dba Captn's Pack and CP Foods USA**

4. Attorney Information (as applicable for service of process):

5.  
David Burow Flak, #20049-64  
LIBERTY MUTUAL GROUP FIELD LEGAL OFFICES  
P.O. Box 6835  
Scranton, PA 18505-6835  
Phone: 219-525-6057 / Fax: 603-334-7281  
David.BurowFlak@LibertyMutual.com

6. Case Type Requested (if initiating party): \_\_\_\_\_

7. Are there related cases? Yes \_\_\_ No X If yes, list case and number below:

a. Caption \_\_\_\_\_ Cause Number \_\_\_\_\_  
b. Caption \_\_\_\_\_ Cause Number \_\_\_\_\_



CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was served on the following parties by using the Court's IEFS System or U.S. Postal Service, pre-paid delivery, for those parties not yet registered, on this 10<sup>th</sup> day of June, 2022.

Julia A. Dugan  
RUBINO, RUMAN, CROSMER & POLEN,  
LLC  
275 Joliet Street, Suite 330  
Dyer, IN 46311

Robert Burdette Thornburg  
FROST BROWN TODD LLC  
201 North Illinois Street  
Suite 1900  
Indianapolis, IN 46204

By: /s/ David P. Burow Flak  
David Burow Flak, #20049-64

LIBERTY MUTUAL GROUP FIELD LEGAL OFFICES  
P.O. Box 6835  
Scranton, PA 18505-6835  
Phone: 219-525-6057  
Fax: 603-334-7281  
David.BurowFlak@LibertyMutual.com

STATE OF INDIANA )  
 ) SS  
COUNTY OF LAKE )

IN THE LAKE SUPERIOR COURT  
CROWN POINT, INDIANA

CAUSE NO: 45D10-2202-CT-000165

DINEEN JOHNSON, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
WAL-MART STORES EAST, LP, )  
WALMART, INC., C.P. FOOD )  
PRODUCTS INC. d/b/a CAPTN'S )  
PACK, and C.P. FOODS USA, )  
 )  
Defendants. )

**MOTION FOR EXTENSION OF TIME**

Defendants, C.P. Food Products Inc dba Captn's Pack and CP Foods USA, by counsel, David Burow Flak, and respectfully moves this Honorable Court for an extension of time to respond to the Plaintiff's Complaint, pursuant to Ind. Trial Rule 6(B)(1) and would show the Court:

1. That a response to Plaintiff's Complaint is due by June 13, 2022, and that said time has not expired.
2. That no prior extensions have been requested.
3. That said extension of time would expire on July 13, 2022.
4. That such extension of time is necessary for Defendants' attorney to properly investigate the allegations in the Plaintiff's Complaint in order to adequately respond to the Plaintiff's Complaint.

WHEREFORE, the Defendants, C.P. Food Products Inc dba Captn's Pack and CP Foods USA, respectfully pray for an extension of time to respond to the Plaintiff's Complaint, up to and including July 13, 2022 and for all other just and proper relief in the premises.



Respectfully Submitted,

LAW OFFICES OF THE  
LIBERTY MUTUAL GROUP

By: /s/ David P. Burow Flak  
David Burow Flak, #20049-64  
*Attorney for Defendants, C.P. Food Products Inc dba Capt'n's  
Pack and CP Foods USA*

**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing was served on the following parties by using the Court's IEFS or U.S. Postal Service, pre-paid delivery, for those parties not yet registered, on this day of 10th day of June, 2022.

Julia A. Dugan  
RUBINO, RUMAN, CROSMER & POLEN,  
LLC  
275 Joliet Street, Suite 330  
Dyer, IN 46311

Robert Burdette Thornburg  
FROST BROWN TODD LLC  
201 North Illinois Street  
Suite 1900  
Indianapolis, IN 46204

By: /s/ David P. Burow Flak  
David Burow Flak, #20049-64

LAW OFFICES OF THE  
LIBERTY MUTUAL GROUP  
P.O. Box 6835  
Scranton, PA 18505-6835  
Phone: 317-582-0438, Ext: 219-525-6057  
Fax: 866-200-5771  
David.Burow Flak@LibertyMutual.com

STATE OF INDIANA )  
 ) SS LAKE SUPERIOR COURT  
COUNTY OF LAKE ) CROWN POINT, INDIANA  
CAUSE NO.: 45D10-2202-CT-000165

DINEEN JOHNSON, )

Plaintiff, )

v. )

WAL-MART STORES EAST, LP, )  
WALMART, INC., C.P. FOOD )  
PRODUCTS INC. d/b/a CAPTN'S )  
PACK, and C.P. FOODS USA, )

Defendants. )

FILED IN OPEN COURT

June 10, 2022

*R. R. Adat-Lopez*

JUDGE, LAKE SUPERIOR COURT,<sup>ss</sup>  
CIVIL DIVISION, ROOM 6  
ss

**ORDER EXTENDING TIME TO RESPOND TO COMPLAINT**

The Court, having reviewed the Motion for Extension of Time filed by Defendants, C.P. Food Products Inc dba Captn's Pack and CP Foods USA, and being duly advised in the premises, now GRANTS said Motion.

IT IS THEREFORE ORDERED that the time within which the Defendants, C.P. Food Products Inc dba Captn's Pack and CP Foods USA, are required to respond to the Plaintiff Complaint is extended up to and including July 13, 2022.

Date: June 10, 2022

*R. R. Adat-Lopez*

JUDGE, Lake Superior Court

ss

**Distribution to:**

David Burow Flak  
LAW OFFICES OF THE LIBERTY MUTUAL GROUP  
P.O. Box 6835  
Scranton, PA 18505-6835

Julia A. Dugan  
RUBINO, RUMAN, CROSMER & POLEN, LLC  
275 Joliet Street, Suite 330  
Dyer, IN 46311

**STATE OF INDIANA  
IN THE LAKE SUPERIOR COURT**

DINEEN JOHNSON,	)	CAUSE NO. 45D10-2202-CT-000165
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
WAL-MART STORES EAST, LP,	)	
WALMART, INC., C.P. FOOD	)	
PRODUCTS INC. d/b/a CAPTN'S PACK	)	
and C.P. FOODS USA,	)	
	)	
Defendants.	)	

**DEFENDANT WAL-MART STORES EAST, LP'S AMENDED ANSWER TO  
PLAINTIFF'S FIRST AMENDED COMPLAINT FOR DAMAGES**

Defendant Wal-Mart Stores East, LP, also incorrectly sued and identified as Walmart, Inc. ("Wal-Mart"), by counsel, for its Amended Answer to Plaintiff's First Amended Complaint for Damages states as follows:

1. Wal-Mart admits that it is licensed to do business in the State of Indiana, but denies the remaining allegations contained in rhetorical paragraph 1.
2. Wal-Mart admits the allegations contained in rhetorical paragraph 2.
3. Wal-Mart denies the allegations contained in rhetorical paragraph 3; however, would admit that Walmart Inc. is located at 702 SW 8<sup>th</sup> Street, Bentonville, AR 72712.
4. Wal-Mart admits it sells Great Value cooked shrimp in the State of Indiana, but denies the remaining allegations contained in rhetorical paragraph 4.
5. Wal-Mart is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in rhetorical paragraph 5 and therefore denies the same.

6. Wal-Mart is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in rhetorical paragraph 6 and therefore denies the same.

7. Wal-Mart is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in rhetorical paragraph 7 and therefore denies the same.

8. Wal-Mart is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in rhetorical paragraph 8 and therefore denies the same.

9. Wal-Mart denies the allegations contained in rhetorical paragraph 9.

WHEREFORE, Defendant Wal-Mart Stores East, LP, also incorrectly sued and identified as Walmart, Inc., by counsel, respectfully prays that Plaintiff take nothing by way of her First Amended Complaint for Damages, for its costs incurred in defending this action, and for all other just and proper relief in the premises.

Respectfully submitted,

FROST BROWN TODD LLC

By /s/ Robert B. Thornburg  
Robert B. Thornburg, #19594-02  
*Attorney for Defendant Wal-Mart Stores  
East, LP, also incorrectly sued as Walmart,  
Inc.*

## COUNT II

1-9. Defendant Wal-Mart Stores East, LP, also incorrectly sued and identified as Walmart, Inc., by counsel, hereby incorporates its answers to rhetorical paragraphs one through 9 to Plaintiff's First Amended Complaint as if fully set forth.

10. The allegations contained in Paragraph 10 of Count II do not contain any allegations directed at Wal-Mart. Therefore, no response to this Paragraph is needed. To the

extent that any allegations contained in Paragraph 10 of Count II can be construed as making any allegation against Wal-Mart, any and all such allegations are denied.

11. The allegations contained in Paragraph 11 of Count II do not contain any allegations directed at Wal-Mart. Therefore, no response to this Paragraph is needed. To the extent that any allegations contained in Paragraph 11 of Count II can be construed as making any allegation against Wal-Mart, any and all such allegations are denied.

12. The allegations contained in Paragraph 12 of Count II do not contain any allegations directed at Wal-Mart. Therefore, no response to this Paragraph is needed. To the extent that any allegations contained in Paragraph 12 of Count II can be construed as making any allegation against Wal-Mart, any and all such allegations are denied.

13. The allegations contained in Paragraph 13 of Count II do not contain any allegations directed at Wal-Mart. Therefore, no response to this Paragraph is needed. To the extent that any allegations contained in Paragraph 13 of Count II can be construed as making any allegation against Wal-Mart, any and all such allegations are denied.

14. The allegations contained in Paragraph 14 of Count II do not contain any allegations directed at Wal-Mart. Therefore, no response to this Paragraph is needed. To the extent that any allegations contained in Paragraph 14 of Count II can be construed as making any allegation against Wal-Mart, any and all such allegations are denied.

15. The allegations contained in Paragraph 15 of Count II do not contain any allegations directed at Wal-Mart. Therefore, no response to this Paragraph is needed. To the extent that any allegations contained in Paragraph 15 of Count II can be construed as making any allegation against Wal-Mart, any and all such allegations are denied.



16. The allegations contained in Paragraph 16 of Count II do not contain any allegations directed at Wal-Mart. Therefore, no response to this Paragraph is needed. To the extent that any allegations contained in Paragraph 16 of Count II can be construed as making any allegation against Wal-Mart, any and all such allegations are denied.

### **AFFIRMATIVE DEFENSES**

Defendant Wal-Mart Stores East, LP, also incorrectly sued and identified as Walmart, Inc., by counsel, for its Affirmative Defenses to Plaintiff's First Amended Complaint for Damages states as follows:

1. Plaintiff's damages were caused by her own negligence and any recovery by her is therefore barred or should be reduced pursuant to Indiana's Comparative Fault Act.

2. Wal-Mart is entitled to a set-off or credit in the event Plaintiff has received or will receive payments from other sources which would result in a double recovery.

3. Plaintiff failed to mitigate her damages, if any.

4. Plaintiff's fault includes, *inter alia*, her assumption of the risk and incurred risk.

5. Although Wal-Mart denies the existence of a defect as alleged by Plaintiff, if Plaintiff was aware of a defect and proceeded to eat the product, such use would bar any recovery by Plaintiff.

6. At all relevant times, the shrimp complied with all applicable government codes, standards, regulations, or specifications, and therefore Wal-Mart is entitled to a presumption that the shrimp was not defective and that Wal-Mart was not negligent.

7. The fault of a currently unknown non-party, the manufacturer of the shrimp, caused or contributed to cause the damages complained of, thereby barring or reducing any recovery by Plaintiff pursuant to the Indiana Comparative Fault Act.

8. Wal-Mart was a retail seller and did not grow, manufacture, process or package the shrimp and therefore cannot be held liable for any defect in the shrimp.

WHEREFORE, Defendant Wal-Mart Stores East, LP, also incorrectly sued as Walmart, Inc., by counsel, respectfully prays that Plaintiff take nothing by way of her First Amended Complaint for Damages, for its costs incurred in defending this action, and for all other just and proper relief in the premises.

**REQUEST FOR JURY TRIAL**

Comes now Defendant, Wal-Mart Stores East, LP, also incorrectly sued as Walmart, Inc., by counsel, and requests trial by jury in this matter.

Respectfully submitted,

FROST BROWN TODD LLC

By /s/ Robert B. Thornburg  
Robert B. Thornburg, #19594-02  
*Attorney for Defendant Wal-Mart Stores  
East, LP, also incorrectly sued as Walmart,  
Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 20<sup>th</sup> day of June, 2022, a copy of the foregoing was filed electronically. Notice of this filing will be sent to the following parties by operation of the Court's electronic filing system.

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LR08000.0754862 4879-5083-6259v2